

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

AUSTIN SHULER'S BEST
LAWNS, INC.,

Plaintiff,

V.

M. SHAPIRO MANAGEMENT
COMPANY
LLC,

Defendant.

1:23-CV-1394-RP

ORDER

Before the Court is Plaintiff's Motion for Summary Judgment, (Dkt. 17), and Defendant's Cross-Motion for Partial Summary Judgment, (Dkt. 18), both filed June 4, 2024. The case was referred to United States Magistrate Judge Susan Hightower for report and recommendation, pursuant to 28 U.S.C. § 636(b). Judge Hightower filed her report and recommendation on October 2, 2024. (Dkt. 29). In her report and recommendation, Judge Hightower recommends that the Court grant in part and deny in part Plaintiff's Motion for Summary Judgment, granting the motion on Plaintiff's Texas Prompt Payment Act claim and denying the motion on Plaintiff's breach of contract claim. (*Id.* at 11). Judge Hightower further recommends denying Defendant's Motion for Partial Summary Judgment. (*Id.*). Plaintiff filed partial objections to the report and recommendation. (Dkt. 31). Defendant did not file objections.

A party may serve and file specific, written objections to a magistrate judge's findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure *de novo* review by the district court. 28 U.S.C. § 636(b)(1)(C). Because Plaintiff objected to Judge Hightower's recommendation that the Court deny Plaintiff's Motion for Summary Judgment on the breach of contract claim, the Court reviews

the report and recommendation *de novo*. Having done so and for the reasons given in the report and recommendation, the Court overrules Plaintiff's objections and adopts the report and recommendation as its own order.

Accordingly, **IT IS ORDERED** that the report and recommendation of United States Magistrate Judge Susan Hightower, (Dkt. 29), is **ADOPTED**. Plaintiff's Motion for Summary Judgment is **GRANTED IN PART AND DENIED IN PART**. Plaintiff's Motion for Summary Judgment is **GRANTED** on Plaintiff's Texas Prompt Payment Act claim and **DENIED** on Plaintiff's breach of contract claim.

IT IS FURTHER ORDERED that Defendant's Partial Motion for Summary Judgment is **DENIED**.

SIGNED on October 28, 2024.

A handwritten signature in blue ink, appearing to read 'Rob Pitman', is written above a horizontal line.

ROBERT PITMAN
UNITED STATES DISTRICT JUDGE